

ATTACHMENT 2

Summary of Counts and Grounds for Dismissal

SUMMARY OF COUNTS AND GROUNDS FOR DISMISSAL

Count	Allegation Summary	Grounds for Dismissal
I	Fifth Am. taking of a flowage easement due to May 2021 flooding	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – seeks a monetary remedy so <i>Ex Parte Young</i> does not apply; • No standing because no injury traceable to act of GLO; • Failure to state a claim against GLO because: <ul style="list-style-type: none"> ○ No facts relate to GLO; ○ Facts do not establish a taking rather than an isolated physical invasion.
II	Fifth Am. taking of sand, causing interference with erosion data /accretion levels	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – seeks a monetary remedy so <i>Ex Parte Young</i> does not apply; • No standing because: <ul style="list-style-type: none"> ○ No injury traceable to act of GLO; ○ No injury to a protected interest. Porretto does not own sand on state-owned land; • Failure to state a claim against GLO because: <ul style="list-style-type: none"> ○ No facts relate to GLO; ○ No facts connecting sand mining to third-party shoreline study; ○ No facts show damage to erosion/accretion levels.
III	Inverse condemnation due to trespass	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – <i>Ex Parte Young</i> does not sanction suits for state-law violations; • No standing because no injury traceable to act of GLO; • Failure to state a claim because has not pled GLO intentionally took property or was substantially certain taking would result.

Count	Allegation Summary	Grounds for Dismissal
IV	Fifth Am. taking for interference with erosion data/accretion levels	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. immunity – seeks a monetary remedy so <i>Ex Parte Young</i> does not apply; • No standing because: <ul style="list-style-type: none"> ○ No injury traceable to act of GLO; ○ No injury to a protected interest. Porretto does not have a protected interest in coastal erosion data taken by a third party. • Failure to state a claim against GLO because: <ul style="list-style-type: none"> ○ No facts relate to GLO; ○ No facts connecting sand mining to third-party shoreline study; ○ No facts about decreased land mass due to erosion.
V	Taking under Texas Constitution Art. 1, § 17	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – <i>Ex Parte Young</i> does not sanction suits for state-law violations; • No standing because no injury traceable to act of GLO; • Failure to state a claim because has not pled GLO intentionally took property for a public use or was substantially certain taking would result.

Count	Allegation Summary	Grounds for Dismissal
VI	Fourteenth Am. due process	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. immunity – re-urges taking claim and seeks a monetary remedy so <i>Ex Parte Young</i> does not applyNo standing because no injury traceable to act of GLO; • No standing because no deprivation of a protected property interest. Porretto does not own sand on state-owned submerged land or have property interest in coastal erosion data taken by a third party; • Failure to state viable procedural due process claim because no pre-deprivation process is due and post-deprivation compensation satisfies; • Failure to state viable substantive due process claim because has not alleged any government act was (1) arbitrary or (2) had no rational relationship to legitimate government interest.
VII	Breach of Settlement Agreement	N/A (not alleged against GLO)
VIII	Tortious interference	N/A (not alleged against GLO)
IX	Texas Water Code § 11.086(a)	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – <i>Ex Parte Young</i> does not sanction suits for state-law violations; • Barred in a state court because no waiver of governmental immunity in statute; • No standing because no injury traceable to act of GLO; • Failure to allege any facts supporting this claim. Texas Water Code does not impose an obligation to construct or install barriers as alleged.

Count	Allegation Summary	Grounds for Dismissal
X	Accounting and reimbursement	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. immunity – seeks a monetary remedy so <i>Ex Parte Young</i> does not apply; • Not an independent claim and connected with no viable claim that would enable this relief, since accounting is only available where there is a contractual or fiduciary relationship.
XI	Injunctive relief for “referring” to Porretto Beach, altering Stewart Beach, providing false erosion and accretion data	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Not an independent claim, and connected with no viable claim that would enable this relief, which is not available as a takings remedy because compensation is available.
XII	Declaratory judgment that right of ways have been abandoned	N/A (not alleged against GLO)
XIII	Declaratory judgment recognizing property rights including mineral interests and submerged lands	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by res judicata; • Barred by Eleventh Am. because federal courts cannot adjudicate state’s interest in property without consent and the state, not a public official, would necessarily be the party in interest so <i>Ex Parte Young</i> does not apply; • Not an independent claim and connected with no viable claim that would enable this relief.

Count	Allegation Summary	Grounds for Dismissal
XIV	Violation under Tort Claims Act	<ul style="list-style-type: none"> • No bankruptcy jurisdiction under 28 USC § 1334; • Barred by Eleventh Am. – <i>Ex Parte Young</i> does not sanction suits for state-law violations; • Barred in state court because has not pled the only waiver of immunity applicable to state governments. • No standing because no injury traceable to act of GLO. • Failure to state a viable claim because she has not alleged any facts against GLO regarding (1) property damage caused by an employee arising from operation of a motor-driven vehicle or (2) personal injury and death.